

REMARKS

Applicants have amended the claims of the above-identified application, by canceling claims 6-8, 12 and 13, directed to a method for manufacturing a sheet-like chemical cell, or directed to a method for manufacturing a fuel cell assembly, without prejudice or disclaimer of the subject matter thereof. In view of canceling of claims 6-8, 12 and 13, any restriction requirement involving these claims (note Group II as set forth in Item 1 on page 2 of the Office Action mailed April 11, 2006) is moot.

As for the restriction requirement between the Group I and Group III claims, set forth on page 2 of the Office Action mailed April 11, 2006, Applicants respectfully elect the Group I claims (that is, claims 1-5, drawn to sheet-like chemical cell), and make this election with traverse, as set forth in the following.

Thus, the Examiner contends that the Group I and Group III claims are related as subcombination and combination; and alleges that restriction is proper in that, inter alia, the combination as claimed does not require the particulars of the subcombination as claimed "because the fuel cell assembly can have either the specific sheet-like chemical cell of claim 1 as recited in claim 9 or a single electrolyte membrane as recited in claim 10". However, note that the alleged restriction is not between claims 9 and 10, but rather is between, e.g., claims 1 and 9. Clearly, the combination of claim 9 requires the subcombination of claim 1, and thus the combination as claimed in claim 9 requires the subcombination as claimed in claim 1, negating propriety of the combination/subcombination restriction.

Focusing on claim 9, it is emphasized that claim 9 requires the chemical cell of claim 1. Accordingly, the contention by the Examiner that, e.g., the fuel cell assembly of claim 9 "does not require the particulars of the subcombination as

claimed for patentability” is not understood. Especially with respect to the fuel cell assembly of claim 9, it is respectfully submitted that the restriction requirement between the chemical cell of claim 1 and the fuel cell assembly of claim 9 is improper. Moreover, as the Examiner has grouped claim 9 with the remaining claims drawn to a fuel cell assembly, it is respectfully submitted that the restriction requirement in the Office Action mailed April 11, 2006, between the Group I and Group III claims, is improper and should be withdrawn.

Moreover, it is again emphasized that the fuel cell assembly as recited in claim 9 requires the sheet-like chemical cell of claim 1. It is respectfully submitted that, as described in the original disclosure of the above-identified application, the sheet-like chemical cell of claim 1 is utilized in fuel cell assemblies. It is respectfully submitted that a complete search of the subject matter of claim 1 would necessitate a search of fuel cell assemblies, such that consideration of both the Group I claims and Group III claims in the present application would not constitute an undue burden on the Examiner. In view thereof, it is respectfully submitted that both groups of claims should be considered herein. See Manual of Patent Examining Procedure 803.

In any event, it is again noted that the sheet-like chemical cell of claim 1 is included in the combination of the fuel cell assembly of claim 9. It is respectfully submitted that upon allowance of the sheet-like chemical cell of claim 1, the fuel cell assembly of claim 9 of necessity would also be allowable. Accordingly, upon allowance of the subject matter of claim 1, it is respectfully requested that at least claim 9 be re-joined in the above-identified application, and be allowed to issue in a U.S. patent based thereon.

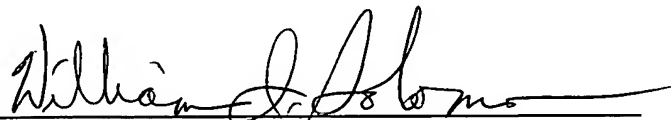
In addition, the election-of-species requirement set forth in Item 6 on pages 3 and 4 of the Office Action mailed April 11, 2006, is noted. Applicants respectfully elect Species 1 (which the Examiner indicates is Embodiment 1, the Examiner referring to page 13 of Applicants' specification). Of the elected Group I, it is respectfully submitted that all of claims 1-5 read on Species 1.

In summary, Applicants respectfully elect the Group I claims (claims 1-5), with traverse; and also respectfully elect Species 1 (Embodiment 1, noting page 13 of Applicants' specification), and respectfully submit that all of the elected Group I claims, claims 1-5, read on this elected species. Examination of at least claims 1-5 on the merits, in due course, is respectfully requested.

Applicants request any shortage in fees due in connection with the filing of this paper be charged to the Deposit Account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (case 520.43227X00), and credit any excess payment of fees to such Deposit Account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

By 

William I. Solomon
Registration No. 28,565

WIS/ksh
1300 N. Seventeenth Street
Suite 1800
Arlington, Virginia 22209
Tel: 703-312-6600
Fax: 703-312-6666